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### **A4U Position Paper N9**

### **Recommendations for some Further Steps for the Operation of the New Directorate Generals...**

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## Recommendations for some further steps

for the operation of the new Directorate Generals and the successful implementation of the reform of the ministries

### The context

The CMU has started a very ambitious reform – within the framework of the Public Administration Reform (PAR) Strategy – for improving the policy development/policy analysis capabilities of the ministries. The key element is the establishment of Directorate Generals (DGs) for some horizontal tasks and some policy areas in the pilot ministries (and in two agencies). This reform is linked to the recruitment of staff for the DGs through a competitive process.

The establishment of the DGs is part of a more fundamental reform: the changing the functions of ministries by eliminating or transferring non-policy making functions.

Although, the implementation of the reform has just started a few months ago, the analysis of the achievements and problems is necessary for moving forward.

It is natural part of all reforms, especially when that are introduced within a yet unchanged general environment, that in the first period a lot of – foreseeable and not foreseeable – difficulties emerge, while the results are yet to come.

### The purpose of this paper

This paper is to outline some of the further steps/actions needed for the proper functioning of the DGs based on the analysis of the preconditions needed and taking into account the actions have been made so far and being in the preparatory phase at the moment.

### The approach

In an ideal situation, for the successful operation of the DGs

- the whole regulatory-procedural, management-organisational and HR environment should be changed in line with the new policy-making/analysis concept and the different other efforts of the PAR Strategy implementation are designed in a coordinated – both regarding content and timing – way, and
- the capacities of the new DGs are up to the required level.

In reality, the reform started in the pilot ministries without those preconditions being present. In the next period the focus is suggested to be put on creating the right environment. This is very rightly reflected by the decision of the CMU on “optimisation of the central executive authorities”.

### Our recommendations for consideration

For operationalising the approach actions suggested in the following directions:

- I. Understanding better the situation

Analysis of the achievements and problems/issues based on reports required from the pilot ministries and on SMCU's own investigation might be very helpful. The reports need to go deeper than acknowledgement of the basic facts (outputs). The reasons behind the significant differences of progress between the ministries should be particularly well explained and understood.

The results of the analysis could help fine-tuning the steps to be taken in the near future.

## II. Systematically creating the “supportive environment”

In our understanding the critical elements of the DGs' operational environment, that require significant changes or at least alignment are the following:

- a. Regulatory - procedural
  - The law on civil service
  - The law on Cabinet of Ministers and Central Public Executive Authorities
  - The budget code
  - The Rules of Procedures of the CMU (RoP)
  - The internal rules of the ministries
  - The strategic planning system of the CMU
- b. Management – organisational
  - External – the formal and informal management of ministries by the Prime Minister and the Center of Government
  - Internal – the formal and informal management of the DGs within the ministries
  - Cooperation among ministries and within the ministry
- c. Human Resource Management issues

The direction of the suggested changes is described in a more detailed way in the annex (That are very much in line with the “optimization” decision). In general, **clarity and consistency** are to be established in all of the above-mentioned areas, because the currently existing uncertainty is one of the key problems.

There are “hard” (laws and other regulations) and “soft” (communication, management style) elements of the operational environment. Time is needed for changing both of them. However, some key “hard” elements, like the Rules of Procedures of CMU, or regulation for standard tasks and processes of Strategic/EI DGs could be developed and introduced in a rather short period of time.

The possible impact of the “soft” elements should not be underestimated: even in case some important regulations are missing, but **the requirements for new way of operation, higher quality policies were clearly communicated** at all levels, the position of DGs would be significantly strengthened.

## III. Increased support to the DGs

- a. Based on the initial experiences of the trainings provided for the DGs, some changes could be considered for making them more practical,

- b. Review of the available materials (literature) relevant for them and by selecting the most up-to-date/helpful establishment a collection could provide additional help,
- c. The mentoring program for the Directors (and possibly for the State Secretaries) is to be launched,
- d. Strengthened daily, formal and informal, support provided by the relevant units of SMCU is also necessary. (for that purpose, a continuously updated “library” of all relevant documents, information of the PAR implementation at SMCU might be helpful).

**Possible A4U contribution – AIM and line to follow: to promote consistence between the AA related tasks and the PAR actions**

The Project, within the limitations of its ToR and assuming the support of the EUD, might contribute in the following areas if required:

- Providing “mentors” for the implementation of the mentoring program
- Contributing to the StS’ training program, providing some of the trainers, especially in the EUI-AA related fields
- Analysing and assessing the reports, information on the progress and problems and make some suggestions. The Project could make a suggestion for the issues to be covered by the reports, if authorised, structured discussions with Directors by STEs could provide more info.
- Commenting on the drafts of the changing legislation – from EUI points of view.
- Development under the aegis of the SCMU draft for standard tasks, structures, processes for the Strategic/EI DGs.
- Develop together with S/EI directors adjusted internal regulations on S/EI-DGs and internal coordination procedures and instruments mainly related to the AA-implementation.
- Review of the training program, making suggestions for fine-tuning, providing some of the trainers
- Developing practical tools (quick guides, manuals) for supporting the new staff.
- A4U is ready to provide several recommendations and guidelines in the area of AA/DCFTA implementation for discussion with the stakeholders with the aim to prepare necessary modifications of the existing institutional framework reflecting the needs/opinions of the line ministries.

## Some key issues to tackle with for the successful operation of the DGs

	Issue	Suggested direction of Action	Comment
1	<b>Policy development process/system</b>	<p>The mission of the DGs is to develop high-quality policies in their designated policy areas. They will be able to fulfil their mission only if there is a consistent system of policy development (when and how policies should be developed, what kind of analysis to be made, in what form it is presented etc.) At the moment such a system does not exist. Although there have been continuous efforts to change the RoP to establish the framework, but that is still in the making.</p> <p>The system should be designed in a way that reflects the different nature of the issues and the resources for policy development available. <b>The principle of proportionality and gradual implementation are to be applied.</b> The suggested general rule is that before legal acts are drafted the very basics of a policy (what is to be achieved, which instruments to be used) should be developed and agreed upon, within the relevant ministry or at the CMU level. For more complicated issues, along with the building up of the capacities of the DGs, more sophisticated policies should be required, by using more advanced instruments like policy impact assessment.</p> <p>In addition to the regulatory framework for policy development, support will be needed for the DGs to meet the new standards. In addition to “general” training and mentoring, the impact assessment will be the most critical element since that requires the most and highly trained resources, probably impossible to build in every DG. The establishment of a centralised team with the necessary capacity might be considered.</p>	
2	<b>Enforcement of the policy development process</b>	<p>With or without the changes to the RoP, the functioning of the policy development will depend on the “demand” side: <b>will high-quality policies be required before decisions are made, legal acts are adopted or not.</b> This should be underpinned by two pillars:</p> <ul style="list-style-type: none"> <li>• a key message from the Prime Minister for making it clear to the ministers that no decision will be made on issues that are earmarked for proper policy-making without a policy document.</li> <li>• Consistent, legally and politically mandated, practice of the SMCU for checking the submitted proposals and refusing those that are not up to the (new) requirement.</li> </ul>	

		The same approach will be needed within each pilot ministry: <b>clear requirements set both by the minister and the state secretary and strict enforcement by the Planning/Budgeting DG.</b>	
3	<b>Strategic Planning System</b>	The outputs of the DGs should be shaped by the overall direction of the CMU and the ministry developed and expressed in strategic documents. Certain elements of such system are in place already, however a comprehensive description, let alone a regulation, of the strategic planning system is still missing. If the links between the different levels/elements of the planning system are not clearly set, the risk is that the policies developed will not focus on the most important issues or the content will deviate from the required direction.	A clear vision (concept) adopted on the CMU level of strategic planning would be needed. The different pieces of legislation (RoP, Budget Code and others) should be developed fully in line with that vision.
4	<b>The budget planning</b>	Both strategic planning and policy-making should be strongly linked to the medium term and annual budget process, otherwise even the “best” policy was useless. At the moment not all the necessary links are in place and the proposed changes to the Budget Code (November 2017), although move in the right direction will not cover everything that needed.  Strategic and Budget planning should be an integrated process and the DGs’ role in that process clearly defined. (Most of the) Budget programs need to be assigned to a specific DG for making clear the financial limits of their policy-making effort as well as their responsibilities.	The vision should also allocate the responsibilities among the ministries. Ideally with a crucial role of the SMCU.
5	<b>Management structure of the ministries</b>	The State Secretaries (StS) have been in their positions since March, but there is no regulation defining their role and responsibilities relevant to all ministries, yet. There is still unclarity – at least in some ministries – who is doing what, who reports to whom on the senior level (minister-deputy minister – StS) and there are significant differences between the arrangements developed in different ministries. This unclarity probably makes problems under the current circumstances but would seriously endanger the operation of the new DGs. It should be clear for DGs: who can instruct them to do/not to do something, who approves their outputs. The arrangement should be generally the same for all DGs within one ministry for all DG and in all pilot ministries.  The decree on the establishment of the DGs claims that the Directors report to the StS but it also claims that the minister coordinates the DGs’ activities. That needs further clarification as well as the role of the deputy ministers.  The whole logic of the restructuring of the ministries and the PAR would suggest that the political level orientates the DGs’ operation through the StS and the StS only.	The ideal solution would be a piece of legislation establishing a definite and firm management structure, including the division of responsibilities between the political and non-political elements. If that is not possible at the moment, at least some formal or informal guidance from the Prime Minister was needed.

6	<b>Clarity and consistency of the management expectations from the ministries' top management</b>	Similar to the need for firm expectations expressed by the RoP and the Prime Minister regarding policy making, the ministers and the StS should consistently and publicly (known by the whole ministry) express expectations towards the DGs. Those expectations should be fully aligned with the RoP and the PM's messages.	
7	<b>Clarity on the future role of the ministries.</b>	The starting point of the ministries' restructuring was to create better conditions for policy making while either transferring or cancelling other functions of the ministries. That requires a well-developed concept of the next step of the reform: to set the criteria and process for the "cleansing" of non-policy making related functions. Parallel with the development of such concept legislation, institution and capacity building is needed for implementing the concept. The most critical issue is probably the execution of the ownership rights of state-owned enterprises (asset management), that is a huge and highly sensitive project by itself.	
8	<b>Clear process of taking over functions and staff from the "old" departments.</b>	To ensure the smooth implementation of the reform the whole staff of all pilot ministry should know how the transition will take place: criteria, decision-making process, timeframe and the future of those are not taken over (based on the concept mentioned above).	At least the deadline for publishing this information should be set when the DGs start their "building up" process.
9	<b>The status of the DGs and their staff in the Civil Service</b>	Ukraine adopted and has been implementing a very sophisticated and rightly praised Law on Civil Service just recently. It is considered as a key contribution to establishing the rule of law and creating stability in the Civil Service. In contrast some elements of the current reform of the ministries is being introduced somewhat "outside" the Civil Service Law. That situation is not sustainable from a purely legal point of view but also creates uncertainty within the ranks of the newly recruited staff. Together with the uncertainties about the sustainability of the funding of the increased salaries could endanger the motivation of the new staff and limit the attractiveness of the new positions.	
10	<b>Internal processes of strategic planning in the ministries</b>	The ministries are obliged to develop a rolling "Strategic Plan" for three years in every year. The importance of such plans will increase in the future. The new DGs for "Strategic Planning/EI" are mandated to develop these plans.	Both key functions if the Strategic/EI DGs require standardised interactions with the SMCU, MoF and

		The Strategic Plans should fit into the (not yet fully designed) strategic planning process that requires standardised structures and processes in every ministry with standardised links to with other DGs/Departments of the ministry, to the Ministry of Finance and also to the SMCU.	the other DGs within the ministry. Even though there might be some differences, these DGs should be structured in a standardised way and should operate along standardised processes.
11	<b>Internal processes of EU integration tasks in the ministries</b>	The EU integration process, the implementation of the AA/DCTFA, in particular, are (should be) centrally coordinated processes across the government. The DGs for “Strategic Planning/EI” are supposed to play a key role in the coordination within the ministry and operating as the interface for GOEAI. The smooth operation requires again standardised processes across the government within the ministries and between ministries and GOEAI.	